

Chapter 106
Steep Slope Protection

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GENERAL REFERENCES

Reimbursement of Professional Consultants' Expenses - Ch. 57

Historic District - See Ch. 64.

Zoning - See Ch. 134.

§ 106-1. Findings and intent.

- A. Steep slopes have been and are in jeopardy of being damaged and destroyed by unregulated filling, excavating, building, clearing and grading, and other such acts inconsistent with the natural conditions of steep slopes.
- B. Steep slopes in the Village of Cold Spring are environmentally sensitive land forms and valuable natural resources which are a benefit to the entire Village. Steep slopes are important environmental and aesthetic features that contribute to the character of the Village of Cold Spring.

- C. Experience has demonstrated that effective management of steep slopes requires preservation wherever possible. Experience has further demonstrated that where steep slopes have to be disturbed, careful review and regulation, including mitigation measures, are required.
- D. Improperly managed disturbances to steep slopes are detrimental to the Village of Cold Spring and can result in public and private expenditures for corrective measures.
- E. Regulation of development on steep slopes is consistent with the legitimate interests of landowners to make reasonable use of their land. Regulation can prohibit the degradation of steep slopes and allow reasonable uses of private property by encouraging flexible design of development to minimize disturbance of steep slopes. Regulation can also permit environmentally sound disturbance of steep slopes conducted in accordance with acceptable management and engineering practices to permit reasonable use of private property.
- F. It is the intent of the Village of Cold Spring to preserve naturally occurring steep slopes to the greatest extent possible.
- G. It is the intent of the Village of Cold Spring to regulate the use of steep slopes to protect the public interest by minimizing detrimental effects of disturbance and development of these areas.
- H. This Chapter is intended to protect the public and the environment from the potential negative impacts of erosion, and sedimentation which may result from disturbance of steep slopes, beyond rates experienced in natural geomorphological processes. This can result in slope failure, increase in downstream runoff resulting in the increase of flooding and the destruction of potentially significant plant and animal habitats including wetlands.
- I. Steep slopes including vegetation and rock cliffs, are an important environmental feature that contribute to the character and desirability of the Village of Cold Spring and help contribute to and maintain the value of residential property in the Village. Furthermore, improper management of steep slopes can result in the alteration of scenic views.
- J. These regulations are intended to exclude from permitting requirements customary landscaping involving minor grading and excavation or filling in connection thereto, provided that such activities conform to all other applicable laws, including the laws of the Village of Cold Spring.

§ 106-2. Definitions.

Definitions. As used in this Chapter, the following terms shall have the meanings indicated:

ALL-WEATHER SURFACE: A surface which can be traversed by an ordinary automobile during all weather conditions.

CUSTOMARY LANDSCAPING: Land maintenance involving tree trimming and pruning, the removal of dead or diseased vegetation, lawn and garden care and the planting of decorative trees, shrubs, and plants.

CUT: Where soil or rock material from a relative rise (elevated portion of landscape) is removed (cut out) to allow a road or other passageway to cross the land without scaling the elevated portion of landscape.

DISTURBANCE: The removal of vegetation, except as specifically permitted herein, or the filling, excavation, regrading or removal of soil, rock or retaining structures in areas of steep slope, whether by manual labor, machine or explosive. The condition of disturbance will be deemed to continue until the area of disturbance is revegetated and/or permanently stabilized.

MINOR GRADING AND EXCAVATION: The removal of less than one cubic yard of material per one hundred (100) square foot area.

RETAINING WALL: A structure designed and constructed to resist the lateral pressure of the soil or rock material, with ground elevation different on the two sides of the retaining wall. If a proposed retaining wall will retain existing soil, the height is measured from the point at which the natural grade intersects the proposed wall to the top of the wall. If a proposed retaining wall will retain new backfill or replacement backfill soil, the height is measured from the bottom grade of the proposed wall to the top of the wall. If backfill is located over the original natural grade, the height is measured from the point at which the original natural grade intersects the proposed wall interior to the top of the wall. If a proposed retaining wall will retain replacement backfill that is engineered soil that provides water drainage and structural support, the height is measured from the point at which the original natural grade intersects the proposed wall interior to the top of the wall.

SLOPE: The rise (vertical change) divided by the run (horizontal change). (Thus, a forty-five (45) degree angle with a vertical change of ten (10) and a horizontal change of ten (10) has a one hundred percent (100%) slope.) Accordingly, a three (3) foot vertical rise over a twenty (20) foot horizontal run constitutes a fifteen percent (15%) slope (an eight point five (8.5) degree angle from horizontal) and triggers the provisions of this section.

STEEP SLOPE: Any existing or proposed slope that is fifteen percent (15%) or greater (in the natural state, without consideration of proposed retaining walls), over a minimum ground area of at least one hundred (100) square feet with a minimum length in any direction of fifteen (15) feet.

§ 106-3. Allowable and regulated Activities.

A. Allowable Activities. The following activities within a Steep Slope area shall be allowed without a permit:

- (1) Any Customary Landscaping involving Minor Grading and Excavation or filling in connection thereto, provided that such activities conform to all other applicable laws of the Village of Cold Spring.
- (2) The Disturbance to Steep Slopes under temporary emergency conditions, as determined by the Code Enforcement Officer, where such Disturbance is necessary to protect persons or property from present and imminent danger.
- (3) Repair of existing walkways and Retaining Walls not involving the Disturbance of existing Steep Slopes as defined herein.
- (4) Installation of a standard-size mailbox.
- (5) Public health activities and emergency uses pursuant to orders of the Putnam County Department of Health and/or the New York State Department of Health.

B. Regulated Activities. It shall be unlawful to create any Disturbance on a Steep Slope or to create a Steep Slope, as defined in this Chapter, other than an allowable activity as listed above, without a Steep Slope permit as required by this section.

§ 106-4. Permit procedures.

In order to achieve the purposes of this Chapter, a Steep Slope permit application shall be filed with the Code Enforcement Officer before undertaking any regulated activity that creates a Disturbance on any property that has a Steep Slope. The Code Enforcement Officer may determine that the permit application should be referred to the Planning Board as per § 106-5. All applications shall contain:

- A. Name of the applicant and mailing address.
- B. Name of the property owner and mailing address, if different.
- C. The street address and tax map designation of property for which a permit is sought.
- D. A statement of the proposed work and purpose thereof.
- E. An application fee in the amount set forth in the Master Fee Schedule established by the Cold Spring Village Board.
- F. Proof that all adjacent property owners have been notified of the Steep Slope application and, in the case of an application requiring Planning Board approval, that adjacent property owners have been notified of the Planning Board meeting at which the application will be considered. Adjacent properties shall include properties directly across a public or private road from the subject property.

G. The following plans:

- (1) Copies, in such reasonable number as determined by the approval authority, of plans for the proposed regulated activities drawn to scale of not less than one (1) inch equals twenty (20) feet (unless otherwise specified by the approval authority). Such plans shall be sealed by a professional engineer or professional surveyor licensed in the State of New York and shall show the following:
 - (a) A detailed site plan of the property showing the applicant's entire property, the adjacent properties, and existing streets and showing the following information:
 - (i) The location of all existing and proposed structures and paved surfaces on the applicant's property and any existing septic systems and wells on such property;
 - (ii) The location of the proposed area of Disturbance on the applicant's property and its relation to neighboring properties' structures, roads, watercourses and wetlands;
 - (iii) The location on the applicant's property of all existing watercourses, wetlands, marshes, wooded areas, rock outcrops, single trees with a diameter of five (5) inches or more measured three (3) feet above the base of the trunk, and all other significant existing land features; and
 - (iv) The existing grades on the applicant's property, indicating proposed paved areas, storm drainage facilities, Retaining Walls and ground cover, as well as the location of trees and ornamental shrubs.
- (2) A landscaping plan for the applicant's property, indicating proposed paved areas, storm drainage facilities, Retaining Walls and ground cover, as well as the location of trees and ornamental shrubs.
- (3) Architectural plans, elevations, sections of the structures and related improvements.
- (4) The location of the proposed area of Disturbance and its relationship to the property lines, easements, buildings, roads, walls, sewage disposal systems, wells, and wetlands within fifty (50) feet of the outer limits of the area of Disturbance.
- (5) The existing and proposed contours at two (2) foot intervals in the area of the proposed Disturbance and to a distance of fifty (50) feet beyond.
- (6) Cross section diagrams of steepest Slope at location of Disturbance.
- (7) Retaining Walls or like constructions, with details of construction, including Retaining Wall heights.
- (8) A soil erosion and sediment control plan prepared by a professional engineer or registered architect licensed in the State of New York describing:

- (a) The methods to be used in overcoming foundation and other structural problems created by Slope conditions, in preserving the natural watershed and in preventing soil erosion;
 - (b) The methods to be used to eliminate or mitigate water runoff on all adjacent properties and any other property that will be naturally affected by increased water runoff; and
 - (c) The methods used to minimize the impact of changes in topography on adjacent and nearby properties through landscaping, Retaining Walls and terracing of gardens.
 - (d) A statement made under the seal of a licensed professional engineer or registered architect certifying that:
 - i. The proposed activity will disturb the Steep Slope area to the minimum extent possible; and
 - ii. The proposed mitigation measure will prevent, to the maximum extent practicable, the adverse effect of any disturbance of the Steep Slope area on the environment and any neighboring properties.
- (9) A plan submitted under the seal of a licensed professional engineer or registered architect showing and certifying the following:
- (a) All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.
 - (b) The calculated volume of water runoff from the Slope(s) and from the lot in question, as unimproved.
 - (c) The calculated volume of water runoff from the Slope(s) and from the lot in question, as improved.
 - (d) The existence, location and capacity of all natural and artificial drainage courses and facilities within five hundred (500) feet of the lot which are or will be used to carry or contain the water runoff from the Slope(s) and the lot.
- H. Other information, including specific reports by qualified professionals on soils, geology and hydrology, and borings and/or test pits, as may be determined to be necessary by the approval authority.
- I. A request that the approval authority exercise its discretion to waive delivery of some or all of the requirements of § 106-4 G of this Chapter as not pertinent or necessary for the proposed Disturbance or because they are otherwise provided with an application being reviewed concurrently by the approval authority.

§ 106-5. Approval authority.

The approval authority with respect to Steep Slope permit applications shall be as follows:

- A. The Planning Board shall be the approval authority with respect to any site plan, development plan, subdivision, special use permit, or other application that requires the issuance of a permit or approval by the Planning Board, Village Board, Zoning Board of Appeals, Historic District Review Board, or any Village board pursuant to the laws of the Village of Cold Spring.
- B. The Code Enforcement Officer shall be the approval authority with respect to all other regulated activities that do not require approval from a Village board.

§ 106-6. Decision timeframe.

For activities requiring any other permit or approval: A determination on the Steep Slope permit application shall be made simultaneously (or around the same time if multiple boards involved with project review) with the determination of the site plan, subdivision, special use permit or other approval from a Village board for which the application was made. Where a Steep Slope permit is granted in conjunction with site plan or subdivision plan approval, the Steep Slope permit approval shall duly be noted on the plan and include a description of any conditions attached to the approval. The Planning Board has discretion as to whether a public hearing needs to be held for each Steep Slope permit application.

- A. For activities not requiring any other permit or approval from a Village board: the determination on the permit application shall be made within sixty (60) days of an application deemed complete by the Code Enforcement Officer. No public hearing is needed.

§ 106-7. Standards for review and approval.

In denying, granting, or granting with modifications any application for a permit, the approval authority shall consider the consistency of the proposed action with the findings set forth in this Chapter, and with the following Steep Slope design standards:

- A. The planning, design, Disturbance, and development of structures shall provide the maximum structural safety, Slope stability, and human enjoyment while adapting the affected site to, and taking advantage of, the best use of the natural terrain.
- B. All buildings, structures, roads, and driveways shall follow the natural contours of the land to the greatest extent possible in order to minimize disturbed areas and the potential for erosion and shall be consistent with other applicable regulations of the Village of Cold Spring and current engineering practices.

- C. The Planning Board, as an approval authority, may reduce the total number of building lots in a subdivision where it finds that such reduction provides the best mitigation to avoiding any adverse impact to Steep Slopes.
- D. The Planning Board, as an approval authority, may impose limits on the number of dwellings, proposed building size, amount of development coverage, and amount of proposed Disturbance, in order to reduce or eliminate impacts to Steep Slopes.
- E. The maximum length of any Retaining Wall, including road Retaining Walls, shall be not more than one hundred (100) linear feet. The maximum height of a Retaining Wall shall not be more than (a) ten (10) feet above ground when supporting Cuts pursuant to paragraph (9) of this section and (b) six (6) feet above ground in all other cases. A waiver to the provisions of this paragraph (G)(5) may be granted by the approval authority if it deems special circumstances are present making such a variance appropriate.
- F. Design of Retaining Walls greater than four (4) feet in height shall be certified by a New York State licensed professional engineer or registered architect with supporting calculations demonstrating that the proposed wall satisfies Code required factors of safety for bearing, sliding, overturning, etc. and approved by the Village of Cold Spring Code Enforcement Officer.
- G. The approval authority may require the installation of landscaping to mitigate the visual and erosional impacts associated with proposed Cuts or expansive lengths and/or heights of Retaining Walls.
- H. The approval authority may require parking and driveways to consist of an All-Weather Surface to ensure adequate and safe access.
- I. The maximum height of any Cut used to establish a building site, a road or a driveway shall not exceed ten (10) feet.
- J. Cuts and fills shall be rounded off to eliminate sharp angles at the top, bottom and sides of regraded Slopes.
- K. The angle of Cut and fill Slopes shall not exceed a Slope of fifty (50) % (one (1) vertical to two (2) horizontal) except where Retaining Walls, structural stabilization, or other methods acceptable to the Village Engineer and approved by the approval authority are employed. Said structural measures shall meet the standards set forth herein.
- L. Tops and bottoms of Cut and fill Slopes shall be set back from structures a distance that will ensure the safety of the structure in the event of the collapse of the Cut or fill Slopes. Generally, such distance shall be considered to be six (6) feet plus one-half (1/2) the height of the Cut or fill. Nevertheless, a structure built on a Slope or at the top of Slope is permitted if it is properly designed to retain the Slope and withstand the forces exerted on it by the retained Slope.
- M. The approved limits of construction shall be physically designated on the property itself to minimize disturbed area. No Disturbance outside the designated area shall take place.

- N. Disturbance of Steep Slopes shall be undertaken in workable units in which the Disturbance can be completed and stabilized in one (1) construction season so that areas are not left bare and exposed during winter and spring thaw periods (December 15 through April 15).
- O. Disturbance of existing vegetative ground cover shall not take place more than fifteen (15) days prior to grading and construction.
- P. Temporary soil stabilization, including, if appropriate, temporary stabilization measures such as netting or mulching to secure soil during the grow-in period must be applied to an area of Disturbance within two (2) days of establishing final grade, and permanent stabilization must be applied within fifteen (15) days of establishing final grade.
- Q. Measures for the control of erosion and sedimentation shall be undertaken consistent with the New York Standards and Specifications for Erosion and Sediment Control, (NYSDEC, August 2005, or most current version or its successor, hereafter referred to as the Erosion Control Manual) and any permit requirements that may be required by that agency.

§ 106-8. Conditions.

In approving any application, the approval authority may impose such conditions or limitations as it deems necessary to ensure compliance with the intent, purposes, and standards of this section.

- A. The approval authority may require a performance bond secured by a letter of credit or cash deposit (in an amount satisfactory to the approval authority in consultation with its consultant(s)), securing to the Village of Cold Spring compliance with the conditions and limitations of the approval.
- B. The approval authority, or its representative, may inspect activities undertaken pursuant to the permit so as to ensure satisfactory completion, the reasonable and necessary cost of which shall be reimbursed by the applicant pursuant to Chapter 57 of the Village Code.
- C. The approval authority may require that the activities undertaken pursuant to a permit be supervised by an appropriate licensed professional, the reasonable and necessary cost of which shall be reimbursed by the applicant pursuant to Chapter 57 of the Village Code.

§ 106-9. Duration of permit.

Activities specified by the permit shall be undertaken pursuant to any conditions of the permit and shall be completed according to any schedule set forth in the permit. A permit shall expire upon completion of the activities specified. Said permit shall be valid for a period of one (1) year from the date of approval; or for the same period of any other permit later issued by the approval authority for the same project, whichever is later. A Steep Slopes permit may be extended by the approval authority. A request for an extension shall be filed with the approval authority at least one (1) month prior to its expiration. A permit may be revoked or suspended where the applicant has not complied with the conditions or limitations set forth in the permit.

§ 106-10. Special hardship exemption.

The approval authority may grant a special hardship exception to an applicant who cannot meet the requirements of this Chapter, provided that the applicant demonstrates that:

- A. The lot cannot be developed without creating the Disturbance.
- B. The proposed construction/Disturbance is not contrary to the objectives of this Chapter;
- C. The Steep Slope area or areas will be disturbed to the minimum extent practicable consistent with the objectives of this Chapter; and
- D. Appropriate mitigation measures will be taken to prevent, to the maximum extent practicable, the adverse environmental effects of such Disturbance of the Steep Slope area.

§ 106-11. Appeals.

Any appeal of any determination, decision or order of the Planning Board can go to Putnam County Supreme Court via an Article 78 proceeding under the New York State Civil Practice Laws and Rules.

§ 106-12. Penalties for offenses.

This Chapter shall be enforced, and penalties for violations of this Chapter shall be assessed, according to the procedures specified for zoning matters in Chapter 134, Zoning, of the Village of Cold Spring Code.